DIVISION

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Docket No. 017761-004000US

Commissioner for Patents

2004 DEC 21 PH 3: 24

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Alexandria, VA 22313-1450

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DEC 2 7 2004

OFFICE OF PETITIONS

TOWNSEND and TOWNSEND and CREW LLP

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

OREN A. MOSHER et al.

Application No.: 10/768,780

Filed: January 30, 2004

For: HEATING METHOD FOR TISSUE

CONTRACTION

Examiner:

Unassigned

Art Unit:

3762

CORRECTION OF ERROR IN SMALL ENTITY STATUS AND PAYMENT OF DEFICIENCY OWED UNDER 37 CFR

§1.28(c) AND MPEP 509.03(x)

December 9, 2004

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Sir:

The above-identified application filed on January 30, 2004 originally claimed small entity status in good faith. However, it has recently been discovered that such status as a small entity was established in error. The following submission and itemization are believed to meet the requirements of 37 C.F.R. Sections 1.28(c)(1) and (c)(2) and MPEP Section 509.03(X). Therefore, Applicants respectfully request the deficiency payment be processed and the correct entity status be accorded to the application.

01 FC:1461

DIVISIO:

OREN A. MOSHER et al. Application No.: 10/768,780

Page 2

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**PATENT** 

## ITEMIZATION AND CALCULATION OF THE DEFICIENCY OWED

DEC 2 7 2004 OFFICE OF PETITIONS

		SMALL	(CURRENT)	DEFICIENCY
DATE	TYPE OF FEE	ENTITY	LARGE	PAYMENT
FILED		FEE	ENTITY FEE	OWED
		ACTUALLY	FOR	
		PAID	ACTION	
01/30/2004	Utility Filing Fee	\$385.00	\$790.00	\$405.00
01/30/2004	Total Claims	\$135.00	\$750.00	\$615.00
01/30/2004	Independent Claims	\$86.00	\$400.00	\$314.00

## **TOTAL DEFICIENCY PAYMENT OWED: \$1334.00**

Applicants hereby authorize the Commissioner to deduct the total deficiency owed of \$1334.00 from Deposit Account No. 20-1430. Please deduct any additional fees due from, or credit any overpayment to, the above-noted Deposit Account.

Applicants understand that under 37 CFR §1.28(d) this submission is treated under § 1.27(g)(2) as a notification of loss of entitlement to small entity status.

If the Examiner believes a telephone conference would expedite prosecution of this application, he is invited to telephone the undersigned at 415.576.0200.

Respectfully submitted,

Nena Bains Reg. No. 47,400

TOWNSEND and TOWNSEND and CREW LLP Two Embarcadero Center, 8th Floor San Francisco, California 94111-3834 Tel: (415) 576-0200

Fax: (415) 576-0300

NB/IIc 60369811 v1

1 5	2004	•		
	FEE TRANSMITTAL	Application Number	10/768,780	
for FY 2005		Filing Date	January 30, 2004	
	101 1 1 2003	First Named Inventor	Mosher, Oren A. 227 BEC 21 Fil 3:	2
	Effective 10/01/2004. Patent fees are subject to annual revision.	Examiner Name	Unassigned	_
	Applicant claims small entity status. See 37 CFR 1.27	Art Unit	3762 RECEIVE	)
,	TOTAL AMOUNT OF PAYMENT (\$) 1334	Attorney Docket No.	017761-004000US DFC 2 7 2004	

011/4/7067						
METHOD OF PAYMENT (check all that apply)	FEE CALCULATION (continued)					
Check Credit Card Money Order Other None	3. ADDITIONAL FEES		S	OFFICE OF PETITIONS		
Deposit Account:	Large	Entity	Small	Entity		
Deposit Account 20-1430	Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fac Description	ee Paid
Number		130	2051	65	Surcharge - late filing fee or oath	
Deposit	1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
Account Townsend and Townsend and Crew LLP Name	1053	130	1053	130	Non-English specification	
The Director is authorized to: (check all that apply)	1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
Charge fee(s) indicated below Credit any overpayments  Charge any additional fee(s) or any underpayment of fee(s)	1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.	1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
FEE CALCULATION	1251	110	2251	55	Extension for reply within first month	
1. BASIC FILING FEE	1252	430	2252	215	Extension for reply within second month	
Large Entity Small Entity	1253	980	2253	490	Extension for reply within third month	
Fee Fee Fee Fee Description Fee Paid	1254	1,530	2254	765	Extension for reply within fourth month	
Code (\$)						
1001 790 2001 395 Utility filing fee	1255	2,080	2255	1,040	Extension for reply within fifth month	
1002 350 2002 175 Design filing fee 1003 550 2003 275 Plant filing fee	1401	340	2401	170	Notice of Appeal	
1003 550 2003 275 Plant filing fee 1004 790 2004 395 Reissue filing fee	1402	340	2402	170	Filing a brief in support of an appeal	
	1403	300	2403	150	Request for oral hearing	
	1451	1,510	1451	1,510	Petition to institute a public use proceeding	
SUBTOTAL (1) (\$)	1452	110	2452	55	Petition to revive – unavoidable	
2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE	1453	1,330	2453	665	Petition to revive - unintentional	I
Fee from	1501	1,370	2501	685	Utility issue fee (or reissue)	
Extra Claims below Fee Paid	1502	490	2502	245	Design issue fee	
Total Claims = X =	1503	660	2503	330	Plant issue fee	
Independent	1460	130	1460	130	Petitions to the Commissioner	
Claims   -** =	1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
Multiple Dependent	1806	180	1806	180	Submission of Information Disclosure Stmt	
Large Entity Small Entity	8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
Fee Fee Fee Fee Code (\$) Code (\$)	1809	790	2809	395	Filing a submission after final rejection (37 CFR § 1.129(a))	
1202 18 2202 9 Claims in excess of 20 1201 88 2201 44 Independent claims in excess of 3	1810	790	2810	395	For each additional invention to be examined (37 CFR § 1.129(b))	
1203 300 2203 150 Multiple dependent claim, if not paid	1801	790	2801	395	Request for Continued Examination (RCE)	
1204 88 2204 44 *** Reissue independent claims over original patent	1802	900	1802	900	Request for expedited examination of a design application	
1205 18 2205 9 ** Reissue claims in excess of 20 and over original patent					r in Small Entity Status and Payment of	334
SUBTOTAL (2) (\$)					8(c) and MPEP 509.03(x)	<b></b>
**or number previously paid, if greater; For Reissues, see above	*Reduce	ed by Basic	Filing F	ee Paid	SUBTOTAL (3) (\$)1334	

SUBMITTED BY	· · · · · · · · · · · · · · · · · · ·			С	omplete (if applicable)	
Name (Print/Type)	Nena Bains	Registration No. (Attorney/Agent)	47,400	Telephone	415-576-0200	
Signature	Uh	j.		Date	12/9/04	

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## TRANSMITTAL FORM

Application Number 10/768,780

Filing Date January 30, 2004

First Named Inventor Mosher, Oren A.
Art Unit 3762

Examiner Name Unassigned

(to be used for all correspondence after initial filing)

Examiner Name

Attorney Docket

Total Number of Pages in This Submission 5 Attorney Docket Number 017761-004000US

ENCLOSURES (Check all that apply)				
Fee Transmittal Form Fee Attached  Amendment/Reply After Final Affidavits/declaration(s)  Extension of Time Request Express Abandonment Request Information Disclosure Statement  Certified Copy of Priority Document(s)  Reply to Missing Parts/ Incomplete Application Reply to Missing Parts under 37 CFR 1.52 or 1.53	Drawing(s)  Licensing-related Papers  Petition Petition to Convert to a Provisional Application Power of Attorney, Revocation Change of Correspondence Address Terminal Disclaimer Request for Refund CD, Number of CD(s)  Landscape Table on CD	After Allowance Communication to TC  Appeal Communication to Board of Appeals and Interferences  Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)  Proprietary Information  Status Letter  Other Enclosure(s) (please identify below):  Return Postcard  Correction of Error in Small Entity Status and Payment of Deficiency Owed Under 37 CFR §1.28(c) and MPEP 509.03(x)  PECEIVED  DEC 2 7 2004  OFFICE OF PETITIONS		
CICNA	TURE OF APPLICANT, ATTORNEY, C			
Firm Name Townsend and Towns		JR AGENI		
Signature	D			
Printed name Nena Bains				
Date 12/9/04	Reg. No.	47,400		
CERTIFICATE OF TRANSMISSION/MAILING				
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Signature Forman Clark				
Typed or printed name Landon Clark		Date 12-9-04		